

Supreme Court Appeals  
Pending Cases  
(12-22-10)

1.	Style	Wendell P. Baugh, III et al. v. Herman Novak et al.
2.	Docket Number	M2008-02438-SC-R11-CV
3.	Lower Court Decision Links	<p>Majority:</p> <p><a href="http://www.tsc.state.tn.us/OPINIONS/TCA/PDF/093/Wendell%20P%20Baugh%20III%20et%20al%20v%20Herman%20Novak%20et%20al%20OPN.pdf">http://www.tsc.state.tn.us/OPINIONS/TCA/PDF/093/Wendell%20P%20Baugh%20III%20et%20al%20v%20Herman%20Novak%20et%20al%20OPN.pdf</a></p> <p>Dissent:</p> <p><a href="http://www.tsc.state.tn.us/OPINIONS/TCA/PDF/093/Wendell%20P%20Baugh%20III%20et%20al%20v%20Herman%20Novak%20et%20al%20DIS.pdf">http://www.tsc.state.tn.us/OPINIONS/TCA/PDF/093/Wendell%20P%20Baugh%20III%20et%20al%20v%20Herman%20Novak%20et%20al%20DIS.pdf</a></p>
4.	Lower Court Summary	<p>This case arises out of a business agreement between the parties. Plaintiffs executed a note to purchase a company. The note contained a stock transfer restriction. Subsequently, Plaintiffs entered into a business agreement with Defendants. The subject of that agreement is disputed in this lawsuit, but Plaintiffs contend that Defendants purchased one-half of the company and executed an indemnity agreement to indemnify Plaintiffs for one-half of the note on the purchase of the company. After operating for nearly ten years, the company failed. At trial, Plaintiffs sought to enforce the indemnity agreement, and Defendants counterclaimed to recover \$73,000.00 that they paid to Plaintiffs before they allegedly executed the contract. The trial court found in Plaintiffs' favor. Defendants now appeal claiming that the trial court made several evidentiary errors, that the contract is unenforceable because it violated the statute of frauds, that parol evidence regarding the terms of the contract was inadmissible, and that the corporation cannot continue its existence and sell stock after dissolution. We reverse the trial court's determination based on our finding that the contract is unenforceable as a matter of public policy.</p>
5.	Status	Heard 10/06/10 in Nashville
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1.	Style	Bluebell Creameries, L.P. v. Loren L. Chumley, Commissioner, Dept. of Revenue
2.	Docket Number	M2009-00255-SC-R11-CV
3.	Lower Court Decision Link	<a href="http://www.tsc.state.tn.us/OPINIONS/TCA/PDF/093/Blue%20Bell%20v%20Dept%20of%20Revenue%20OPN.pdf">http://www.tsc.state.tn.us/OPINIONS/TCA/PDF/093/Blue%20Bell%20v%20Dept%20of%20Revenue%20OPN.pdf</a>
4.	Lower Court Summary	<p>The Tennessee Department of Revenue assessed an excise tax on a nondomiciliary subsidiary corporation which conducted business in the state based on income earned outside the state as a result of the parent corporation's</p>

redemption of outstanding stock held by the subsidiary. The Department's tax assessment was based on a determination that the income was taxable as "business earnings" under the Tennessee Excise Tax Law. The trial court found that the subsidiary and its parent corporation were not part of a unitary business relationship and, consequently, that the tax assessment was unconstitutional. Finding that the entities were not part of a unitary business relationship, the judgment of the trial court is affirmed.

5.	Status	Heard 06/03/10 in Nashville
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1.	Style	Board of Professional Responsibility v. F. Chris Cawood
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2.	Docket Number	E2009-01957-SC-R3-BP
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3.	Lower Court Decision Link	None available/Direct Appeal
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4.	Lower Court Summary	None Available/Direct Appeal
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5.	Status	Opinion filed 12/20/10
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1.	Style	Board of Professional Responsibility v. Thomas Cowan, Jr.
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2.	Docket Number	E2010-00957-SC-R3-BP
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3.	Lower Court Decision Link	No lower court decision
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4.	Lower Court Summary	No lower court decision
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5.	Status	Heard 09/02/10 in Knoxville
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1.	Style	Board of Professional Responsibility v. David A. Lufkin, Sr.
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2.	Docket Number	M2010-00827-SC-R3-BP
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3.	Lower Court Decision Link	No lower court decision
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4.	Lower Court Summary	No lower court decision
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5.	Status	To be heard 02/02/11 in Nashville
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1.	Style	Board of Professional Responsibility v. G. Thomas Nebel
2.	Docket Number	M2010-00420-SC-R3-BP
3.	Lower Court Decision Link	No lower court decision
4.	Lower Court Summary	No lower court decision
5.	Status	Heard 10/05/10 in Nashville; motion to consider post-judgment facts filed 11/16/10
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1.	Style	Board of Professional Responsibility v. William B. Penn
2.	Docket Number	W2010-01250-SC-R3-BP
3.	Lower Court Decision Link	None available/Direct Appeal
4.	Lower Court Summary	None Available/Direct Appeal
5.	Status	Order filed 10/19/10 reinstating appeal and directing that any remaining transcripts and/or statement of the evidence must be filed with the trial court by 10/25/10. Record filed 12/16/10.
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1.	Style	Dawn Brown et al v. Tennessee Title Loans, Inc.
2.	Docket Number	E2008-01758-SC-R11-CV
3.	Lower Court Link	<a href="http://www.tsc.state.tn.us/OPINIONS/TCA/PDF/093/Dawn%20Brown%20vs%20Tennessee%20Title%20Loans%20Inc%20OPN.pdf">http://www.tsc.state.tn.us/OPINIONS/TCA/PDF/093/Dawn%20Brown%20vs%20Tennessee%20Title%20Loans%20Inc%20OPN.pdf</a>
4.	Lower Court Summary	We accepted this interlocutory appeal to consider “the sole issue of whether the Tennessee Title Pledge Act [“the Act”], Tenn. Code Ann. § 45-15-101, et. seq. [(2007)] provides . . . a private right of action.” Defendant is a “title pledge lender” as defined in the Act. Plaintiffs all allegedly obtained loans from the defendant and, again allegedly, were charged interest and fees, including a “redemption premium,” not allowed by the Act. The trial court granted defendant’s motion to dismiss all claims based on alleged violations of the Act, holding that the Act does not afford a private right of action. The trial court granted plaintiffs’ motion for an interlocutory appeal pursuant to Tenn. R. App. P. 9. Plaintiffs then filed a timely application for permission to appeal to this Court, which we granted, limited to the stated issue. We now vacate the order of dismissal and remand for further proceedings.

5.	Status	Opinion filed 11/29/10 reversing the judgment of the Court of Appeals and remanding to the trial court
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1.	Style	CAO Holdings, Inc. v. Loren L. Chumley, Commissioner of Revenue
2.	Docket Number	M2008-01679-SC-R11-CV
3.	Lower Court Decision Links	<a href="http://www.tsc.state.tn.us/OPINIONS/TCA/PDF/092/CAO%20Holdings%20v%20Revenue%20OPN.pdf">http://www.tsc.state.tn.us/OPINIONS/TCA/PDF/092/CAO%20Holdings%20v%20Revenue%20OPN.pdf</a> <a href="http://www.tsc.state.tn.us/OPINIONS/TCA/PDF/092/CAO%20Holdings%20v%20Revenue%20DISSENT.pdf">http://www.tsc.state.tn.us/OPINIONS/TCA/PDF/092/CAO%20Holdings%20v%20Revenue%20DISSENT.pdf</a>
4.	Lower Court Summary	Commissioner of Revenue assessed a tax based on the taxpayer's use of an airplane which had been purchased out of state. Taxpayer sought review from the Department, but was denied relief following an informal hearing. Taxpayer appealed and the Chancery Court reversed, finding that, because (1) taxpayer provided the seller with a certificate of resale, (2) taxpayer immediately leased the airplane such that it transferred possession and control of the plane to the user, and (3) taxpayer was a validly organized business which observed all corporate formalities, the sale-for-resale exemption pursuant to Tenn. Code Ann. § 67-6-102(34)(A) applied to the transaction. Finding no error, we affirm.
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5.	Status	Opinion filed 12/15/10 reversing the judgment of the Court of Appeals
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1.	Style	City of Harriman, Tennessee v. Roane County Election Commission, et al
2.	Docket Number	E2008-02316-SC-R11-CV
3.	Lower Court Decision Link	<a href="http://www.tsc.state.tn.us/OPINIONS/TCA/PDF/094/City%20of%20Harriman%20v%20Roane%20Co%20Election%20Commission%20OPN.pdf">http://www.tsc.state.tn.us/OPINIONS/TCA/PDF/094/City%20of%20Harriman%20v%20Roane%20Co%20Election%20Commission%20OPN.pdf</a>
4.	Lower Court Summary	This is a contest between two neighboring towns in Roane County over common territory that both have purported to annex. The defendant, Kingston, sought to add the territory through a successful referendum election conducted on February 5, 2008. The plaintiff, Harriman, sought to add the territory through its annexation ordinance No. 200801-1 adopted on first reading January 28, 2008. The disputed territory is outside the "[u]rban growth boundary" of both municipalities; it is within the "[r]ural area" of Roane County as those terms are respectively defined in Tenn. Code Ann. § 6-58-101 (7) and (6) (2005). Harriman's complaint to void the Kingston referendum asserts that Harriman's ordinance takes priority because Harriman, as a larger municipality, is granted statutory priority. Kingston argues that the Harriman ordinance was of no effect because Harriman did not first secure an amendment to its urban growth boundary before passing the ordinance. Harriman responded that it did in fact "propose" an amendment and that a proposal was all that was required under Tenn. Code Ann. § 6-58-111(d)(1) (Supp. 2009). The parties tried the case on stipulated facts. The trial court agreed with Kingston and dismissed Harriman's complaint without reaching the issue of priority. Harriman appeals, asking us to

reverse and remand for a determination of the pretermitted issues. We vacate the judgment of the trial court and remand for further proceedings.

5.	Status	To be heard 01/05/11 in Knoxville
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1.	Style	James Crowley, et al. v. Wendy Thomas
2.	Docket Number	M2009-01336-SC-R11-CV
3.	Lower Court Decision Link	<a href="http://www.tncourts.gov/OPINIONS/Tca/PDF/101/James%20Crowley%20et%20al%20v%20Wendy%20Thomas%20OPN.pdf">http://www.tncourts.gov/OPINIONS/Tca/PDF/101/James%20Crowley%20et%20al%20v%20Wendy%20Thomas%20OPN.pdf</a>
4.	Lower Court Summary	<p>The issue on appeal is whether a defendant, who appealed from an adverse judgment rendered against her in the general sessions court, may dismiss the appeal at any time in the circuit court and thereby dismiss the plaintiff's additional claims asserted in an amended complaint in the circuit court. Following the defendant's appeal to the circuit court, the plaintiff/appellee filed an amended complaint adding his wife as an additional plaintiff, asserting additional claims and seeking additional damages. On the eve of trial, the defendant filed a Notice of Dismissal of Appeal and Motion to Affirm General Sessions Judgment. The plaintiffs objected to the dismissal of their amended complaint, insisting that they had the right to proceed with their new and additional claims. The circuit court held that the party appealing from a general sessions judgment is entitled to dismiss the appeal at any time, without the consent of the adverse party, and the affirmance of the general sessions judgment. We affirm the decision of the circuit court.</p>
5.	Status	To be heard 02/03/11 in Nashville
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1.	Style	Discover Bank v. Joy A. Morgan
2.	Docket Number	E2009-01337-SC-R11-CV
3.	Lower Court Decision Link	<a href="http://www.tncourts.gov/OPINIONS/TCA/PDF/102/Discover%20Bank%20v%20Joy%20A%20Morgan%20OPN.pdf">http://www.tncourts.gov/OPINIONS/TCA/PDF/102/Discover%20Bank%20v%20Joy%20A%20Morgan%20OPN.pdf</a>
4.	Lower Court Summary	<p>This lawsuit began as a collection claim filed by Discover Bank ("Discover") against Joy A. Morgan ("Morgan") for \$16,341.52. Discover claimed Morgan owed this amount on a credit card originally issued to Morgan's husband, now deceased. Morgan filed an answer and counterclaim, asserting a claim for libel as well as claims pursuant to the federal Fair Credit Reporting Act, 15 U.S.C. § 1681, and the Tennessee Consumer Protection Act, Tenn. Code Ann. § 47-18-101, <i>et seq.</i> Morgan's attorney gave Discover's original attorney an extension of time in which to file an answer to the counterclaim. After this extension of time had run, Morgan's attorney warned Discover's attorney that a motion for default judgment would be filed if an answer was not filed within fourteen days. When</p>

Discover failed to file an answer within the fourteen days, Morgan filed a motion for default judgment. Discover's attorney failed to show up for the hearing and a default judgment was awarded to Morgan. Discover filed a Motion to Set Aside Default Judgment "pursuant to Rule 60.02. . . ." This motion was denied. Following a later hearing on damages, Morgan was awarded compensatory damages totaling \$125,200, which the Trial Court then trebled under the Tennessee Consumer Protection Act. After obtaining new counsel, Discover filed a motion to alter or amend the judgment, which was denied. Discover now appeals. We affirm the Trial Court's Order denying Discover's motion to alter or amend the judgment and set aside the default judgment. We, however, vacate the award of damages and remand for a new hearing on the amount of damages and also to determine reasonable attorney fees incurred by Morgan on appeal.

5.	Status	Appellant's brief filed 12/10/10
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1.	Style	Omer Lee Dixon, Jr. v. Travelers Indemnity Company
2.	Docket Number	W2010-00339-WC-R3-WC
3.	Lower Court Decision Link	N/A
4.	Lower Court Summary	N/A
5.	Status	Heard 11/03/10 in Jackson
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1.	Style	Bob Fannon v. City of LaFollette, et al.
2.	Docket Number	E2008-01616-SC-R11-CV
3.	Lower Court Decision Link	<a href="http://www.tncourts.gov/OPINIONS/TCA/PDF/101/Bob%20Fannon%20Councilman%20v%20LaFollette%20opn.pdf">http://www.tncourts.gov/OPINIONS/TCA/PDF/101/Bob%20Fannon%20Councilman%20v%20LaFollette%20opn.pdf</a>
4.	Lower Court Summary	In this action for declaratory judgment against the City of LaFollette, the City Council, and three City Councilmen, the trial court awarded the plaintiff attorney's fees, costs and discretionary costs. On appeal, the defendants argue that the trial court erred in finding the plaintiff as the "prevailing party" in the litigation and that the trial court's award was unwarranted and erroneous. We hold that the plaintiff was not a prevailing party, and therefore, the trial court erred in awarding the plaintiff attorney's fees and costs on that basis.
5.	Status	Opinion filed 12/21/10 affirming in part and reversing in part the judgment of the Court of Appeals
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1.	Style	Estate of Martha S. French v. The Stratford House, et al
2.	Docket Number	E2008-00539-SC-R11-CV
3.	Lower Court Decision Link	<a href="http://www.tncourts.gov/OPINIONS/TCA/PDF/091/FrenchmsOPN.pdf">www.tncourts.gov/OPINIONS/TCA/PDF/091/FrenchmsOPN.pdf</a>
4.	Lower Court Summary	<p>This case involves a complaint for personal injury and wrongful death filed by Kimberly S. French (“the Administratrix”), Administratrix of the Estate of Martha S. French (“the Deceased”), against the owners and operators of a nursing home (“the Defendants”).<sup>1</sup> The Deceased was a resident of the nursing home – The Stratford House – from April 3, 2003, to July 23, 2003. The Administratrix claims that the Defendants failed to provide the Deceased with basic care such as filling her water pitcher, feeding her, cleaning her after incontinence, bathing her and turning her every two hours to avoid pressure sores. The Administratrix argues that, due to lack of care, the Deceased developed pressure sores that were not properly treated, became infected and ultimately caused her death from sepsis. The Administratrix, who is the daughter of the Deceased, brought suit, alleging claims for ordinary negligence, negligence <i>per se</i> under state and federal regulations of nursing homes, violations of the Tennessee Adult Protection Act (“TAPA”), Tenn. Code Ann. § 71-6-101 <i>et seq</i> (2004 &amp; Supp. 2008), and medical malpractice under Tenn. Code Ann. § 29-26-115 <i>et seq</i>. (2000 &amp; Supp. 2008). The trial court held that the only cognizable claims against Stratford House were for medical malpractice. The court granted the Defendants summary judgment on all of the Administratrix’s non-medical malpractice claims and on her claim for punitive damages. Two of the defendants sought summary judgment as to all of the claims; the court denied their motion. The Administratrix appeals and both sides raise issues. We affirm in part and vacate in part.</p>
5.	Status	Heard 05/04/10 in Knoxville

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1.	Style	Thomas M. Gautreaux v. Internal Medicine Education Foundation, Inc.
2.	Docket Number	E2008-01473-SC-R11-CV
3.	Lower Court Decision Links	<p>Majority:  <a href="http://www.tsc.state.tn.us/OPINIONS/TCA/PDF/094/Thomas%20M%20Gautreaux%20v%20Internal%20Med%20Educ%20Found%20Inc%20OPN.pdf">http://www.tsc.state.tn.us/OPINIONS/TCA/PDF/094/Thomas%20M%20Gautreaux%20v%20Internal%20Med%20Educ%20Found%20Inc%20OPN.pdf</a></p> <p>Dissent:  <a href="http://www.tsc.state.tn.us/OPINIONS/TCA/PDF/094/Thomas%20M%20Gautreaux%20v%20Internal%20Med%20Educ%20Found%20Inc%20DIS.pdf">http://www.tsc.state.tn.us/OPINIONS/TCA/PDF/094/Thomas%20M%20Gautreaux%20v%20Internal%20Med%20Educ%20Found%20Inc%20DIS.pdf</a></p>
4.	Lower Court Summary	<p>This case involves the interpretation of a portion of the Tennessee Public Records Act, Tenn. Code Ann. § 10-7-503. The trial court found that despite the fact the defendant foundation qualified for the statutory exemption set forth in Tenn. Code Ann. § 10-7-503(d)(1), the entity is subject to the Tennessee Public Records Act because it is the functional equivalent of a public agency. The foundation has appealed. We affirm.</p>

5.	Status	Heard 09/02/10 in Knoxville
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1.	Style	Johanna L. Gonsewski v. Craig W. Gonsewski
2.	Docket Number	M2009-00894-SC-R11-CV
3.	Lower Court Decision Link	<a href="http://www.tsc.state.tn.us/OPINIONS/TCA/PDF/101/Johanna%20L%20Gonsewski%20v%20Craig%20W%20Gonsewski%20OPN.pdf">http://www.tsc.state.tn.us/OPINIONS/TCA/PDF/101/Johanna%20L%20Gonsewski%20v%20Craig%20W%20Gonsewski%20OPN.pdf</a>
4.	Lower Court Summary	The wife in this divorce action contends the trial court erred in the division of the marital property, in denying her request for alimony, and in denying her request to recover her attorney's fees. We have determined the wife is in need of and the husband has the ability to pay alimony in futuro, in the amount of \$1,250 per month, and that she is entitled to recover attorney's fees. We, therefore, reverse the judgment of the trial court regarding alimony in futuro and remand the issue of attorney's fees, leaving it to the discretion of the trial court to determine an amount that is reasonable and necessary under the circumstances of this case. We affirm the trial court in all other respects.
5.	Status	To be heard 2/3/11 in Nashville
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1.	Style	Dr. William P. Harman v. University of Tennessee at Chattanooga
2.	Docket Number	E2009-02139-SC-R11-CV
3.	Lower Court Decision Link	<a href="http://www.tsc.state.tn.us/OPINIONS/TCA/PDF/102/Dr%20William%20P%20Harman%20vs%20%20Univ%20of%20TN%20opn.pdf">http://www.tsc.state.tn.us/OPINIONS/TCA/PDF/102/Dr%20William%20P%20Harman%20vs%20%20Univ%20of%20TN%20opn.pdf</a>
4.	Lower Court Summary	This appeal involves the Tennessee Public Protection Act. The plaintiff professor was a department head at the defendant university. As the department head, the plaintiff evaluated a subordinate professor. The dean of the university instructed the plaintiff to remove negative information from the evaluation; the plaintiff refused. The plaintiff was then removed from his position as department head. He continued at the university as a tenured professor. The plaintiff sued the university asserting a claim under the Public Protection Act, alleging that he was discharged or terminated for refusing to participate in or remain silent about illegal activities. The trial court granted the university's motion for judgment on the pleadings on the basis, <i>inter alia</i> , that the plaintiff was neither terminated nor discharged. The plaintiff now appeals. We affirm, concluding that the removal of the plaintiff from his position as department head, when he remained employed as a professor, is not a termination or discharge under the Public Protection Act.
5.	Status	Granted 12/08/10
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1.	Style	Alicia D. Howell v. Nissan North America, Inc.
2.	Docket Number	No. M2009-02567-SC-WCM-WC
3.	Lower Court Decision Link	Not Available
4.	Lower Court Summary	Not Available
5.	Status	Motion for Review Granted 12/10/10
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1.	Style	Shawn Howell, Individually and as Administrator for the Estate of Jesse Franklin Browning, Jr., v. Claiborne and Hughes Health
2.	Docket Number	No. M2009-01683-SC-R11-CV
3.	Lower Court Decision Link	<a href="http://www.tsc.state.tn.us/OPINIONS/TCA/PDF/102/Shawn%20Howell%20for%20Jesse%20Franklin%20Browning%20Jr%20Estate%20vs%20Claiborne%20&amp;%20Hughes%20Health%20Cntr%20OPN.pdf">http://www.tsc.state.tn.us/OPINIONS/TCA/PDF/102/Shawn%20Howell%20for%20Jesse%20Franklin%20Browning%20Jr%20Estate%20vs%20Claiborne%20&amp;%20Hughes%20Health%20Cntr%20OPN.pdf</a>
4.	Lower Court Summary	This is a medical malpractice action. Appellant originally filed a claim in 2007 in the name of an estate. The original claim was subsequently non-suited. Less than one year later, the claim was then re-filed, also in the name of an estate. With permission of the court, the Appellant later amended the complaint to name the administrator of the estate as the plaintiff. However, upon the Appellee's motion, the trial court dismissed the complaint finding: (1) the complaint was barred by the statute of limitations as there were no allegations in the complaint which would invoke the savings statute; (2) the complaint failed to state with particularity the specific acts of negligence; and (3) that the Appellant failed to comply with the notice requirements for a medical malpractice action found in Tenn. Code. Ann. § 29-26-121. Finding that the trial court erred, we reverse the decision of the trial court and remand for further proceedings.
5.	Status	Granted 12/07/10
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1.	Style	Elizabeth Leanne Hudson v. Larson Douglas Hudson
2.	Docket Number	M2008-01143-SC-R11-CV
3.	Lower Court Decision Link	Majority Opinion: <a href="http://www.tsc.state.tn.us/OPINIONS/TCA/PDF/094/Elizabeth%20L%20Hudson%20v%20Larson%20D%20Hudson%20OPN%20Rehear.pdf">http://www.tsc.state.tn.us/OPINIONS/TCA/PDF/094/Elizabeth%20L%20Hudson%20v%20Larson%20D%20Hudson%20OPN%20Rehear.pdf</a>
		Dissenting Opinion: <a href="http://www.tsc.state.tn.us/OPINIONS/TCA/PDF/094/Elizabeth%20L%20Hudson%20v%20Larson%20D%20Hudson%20DIS%20Rehear.pdf">http://www.tsc.state.tn.us/OPINIONS/TCA/PDF/094/Elizabeth%20L%20Hudson%20v%20Larson%20D%20Hudson%20DIS%20Rehear.pdf</a>

4.	Lower Court Summary	This case involves an appeal concerning the relocation of Elizabeth Leanne Hudson (“Mother”) and her two minor children from Nashville, Tennessee, to Hopkinsville, Kentucky. Larson Douglas Hudson (“Father”) opposed the relocation. After a three day bench trial, the trial court granted Mother’s request to relocate after finding, pursuant to Tenn. Code Ann. § 36-6-108, that the relocation was reasonable and not vindictive. The trial court also awarded Mother attorney’s fees. For the following reasons, we affirm the holding of the trial court regarding the relocation but reverse concerning the attorney’s fees.
5.	Status	Order filed 12/17/10 dismissing the appeal as moot
1.	Style	Dalton Reb Hughes, et al. v. Metropolitan Gov’t of Nashville & Davidson County, Tennessee, et al.
2.	Docket Number	M2008-02060-SC-R11-CV
3.	Lower Court Decision Link	<a href="http://www.tsc.state.tn.us/OPINIONS/TCA/PDF/101/Dalton%20Reb%20Hughes%20v%20Metro%20Nashville%20Govt%20OPN.pdf">http://www.tsc.state.tn.us/OPINIONS/TCA/PDF/101/Dalton%20Reb%20Hughes%20v%20Metro%20Nashville%20Govt%20OPN.pdf</a>
4.	Lower Court Summary	A Metro public works employee was injured when a front end loader operated by a Metro fire department employee made a loud noise, causing the public works employee, fearing for his life, to fall while attempting to jump over a guardrail. The injured plaintiff filed suit against Metro and the defendant front end loader operator. Metro filed a cross-claim against the defendant as well as a counter-claim against the plaintiff seeking a subrogation of lost wages and medical payments recovered from the defendant. The trial court found that the defendant acted negligently and within the scope of his employment, and thus, it found that Metro’s immunity was removed pursuant to the Governmental Tort Liability Act. Accordingly, the trial court entered a judgment for the plaintiff against Metro, and it dismissed the claims against the defendant. On appeal, Metro argues that the defendant acted intentionally, rather than negligently, and that his conduct was outside the scope of his employment, such that Metro retains its immunity. We affirm.
5.	Status	To be heard 2/03/11 in Nashville
1.	Style	Dorothy King, R.N., et al. v. Virginia Betts, Commissioner of the TN Dept. of Mental Health and Development Disabilities, in her individual capacity, et al.
2.	Docket Number	M2009-00117-SC-R11-CV
3.	Lower Court Decision Link	<a href="http://www.tncourts.gov/OPINIONS/Tca/PDF/094/D%20King%20RN%20and%20P%20Battle%20RN%20v%20V%20Betts%20DMHDD%20Commissioner%20OPN.pdf">http://www.tncourts.gov/OPINIONS/Tca/PDF/094/D%20King%20RN%20and%20P%20Battle%20RN%20v%20V%20Betts%20DMHDD%20Commissioner%20OPN.pdf</a>

4.	Lower Court Summary	This is a 42 U.S.C. § 1983 claim based on alleged retaliation in violation of the First Amendment. Appellant claims that Appellees retaliated against her in her employment for speaking out against a hospital policy. Appellees assert the defense of qualified immunity. Appellant appeals from the trial court's decision to grant summary judgment and judgment on the pleadings to the Appellees. Finding that there are material issues of fact in dispute, we reverse the trial court's grant of summary judgment. Further, we find that Appellant has stated a claim upon which relief may be granted and, therefore, reverse the trial court's decision to grant Appellees' motion for judgment on the pleadings. Affirmed in part, reversed in part and remanded.
5.	Status	To be heard 02/02/11 in Nashville
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1.	Style	Knox County, Tennessee ex rel. Environmental Termite & Pest Control, et al. v. Arrow Exterminators, et al.
2.	Docket Number	E2007-02827-SC-R11-CV
3.	Lower Court Decision Link	<a href="http://www.tsc.state.tn.us/OPINIONS/TCA/PDF/093/Knox%20County,%20TN,%20on%20the%20relationship%20of%20Environmental%20Termite%20&amp;%20Pest%20Control%20OPN.pdf">http://www.tsc.state.tn.us/OPINIONS/TCA/PDF/093/Knox%20County,%20TN,%20on%20the%20relationship%20of%20Environmental%20Termite%20&amp;%20Pest%20Control%20OPN.pdf</a>
4.	Lower Court Summary	Plaintiff filed this action as a " <i>qui tam</i> claim" pursuant to the Tennessee False Claims Act. Tenn. Code Ann. § 4-18-101 <i>et seq.</i> The Trial Court awarded plaintiff proceeds from the settlement under the Act and both parties have appealed. On appeal we hold that plaintiff did qualify under the statute as an original source, and the Trial Court had jurisdiction to award a recovery. However, we hold there is not sufficient evidence to affirm the award. We vacate the award and remand pursuant to Tenn. Code Ann. § 27-3-128.
5.	Status	To be heard 01/05/11 in Knoxville
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1.	Style	Michael Lind v. Beaman Dodge, Inc.
2.	Docket Number	M2010-01680-SC-R09-CV
3.	Lower Court Decision Link	No lower court decision
4.	Lower Court Summary	No lower court decision
5.	Status	Order granting motion to supplement the record filed 12/09/10. The supplemental record is due 01/07/11. The appellant's brief is due 02/07/11.
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1.	Style	Kristen Cox Morrison v. Paul Allen, et al.
2.	Docket Number	M2007-01244-SC-R11-CV
3.	Lower Court Decision Link	<a href="http://www.tncourts.gov/OPINIONS/TCA/PDF/091/MorrisonKOPN.pdf">www.tncourts.gov/OPINIONS/TCA/PDF/091/MorrisonKOPN.pdf</a>
4.	Lower Court Summary	Wife sued the insurance company for failure to pay on Husband's life insurance policy and the insurance brokers for failure to procure an enforceable life insurance policy, various torts and violation of the Tennessee Consumer Protection Act ("TCPA"). Wife settled with the insurance company before trial and won judgments against the brokers based on failure to procure an enforceable life insurance policy (\$1,000,000.00); negligence, negligent misrepresentation, and breach of fiduciary duty (\$300,000.00); and violation of the TCPA (an additional \$300,000.00) Defendants appeal, claiming that they should receive a credit for the amount of the settlement with the insurance company and that the other awards were improper for various reasons. We affirm the \$1,000,000.00 judgment but find that a credit for the settlement is appropriate. We affirm the tort award. We also affirm the finding of a violation of the TCPA and affirm the award of the additional \$300,000.00.
5.	Status	Order granting motion to supplement the record filed 12/09/10. Supp. Record due 1/07/11. Appellant's brief due 2/07/11.

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1.	Style	Evelyn Nye v. Bayer Cropscience, Inc. et al.
2.	Docket Number	E2008-01596-SC-R11-CV
3.	Lower Court Decision Link	<a href="http://www.tsc.state.tn.us/OPINIONS/TCA/PDF/094/Evelyn%20Nye%20v%20Bayer%20Cropscience%20OPN.pdf">http://www.tsc.state.tn.us/OPINIONS/TCA/PDF/094/Evelyn%20Nye%20v%20Bayer%20Cropscience%20OPN.pdf</a>
4.	Lower Court Summary	Defendants sold materials containing asbestos to the deceased's employer, where he was exposed to asbestos and contracted mesothelioma from which he died. Plaintiff's widow brought this action against the supplier, a jury trial resulted and the jury returned a verdict for the defendant, which the Trial Court approved. On appeal, we hold that certain jury instructions were error and we reverse and remand for a new trial.
5.	Status	Heard 09/02/10 in Knoxville

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1.	Style	Norman Redwing v. The Roman Catholic Diocese Of Memphis
2.	Docket Number	No. W2009-00986-SC-R10-CV
3.	Lower Court Decision Links	<a href="http://www.tsc.state.tn.us/OPINIONS/Tca/PDF/102/Norman%20Redwing%20v%20Catholic%20Diocese%20Memphis%20OPN.pdf">http://www.tsc.state.tn.us/OPINIONS/Tca/PDF/102/Norman%20Redwing%20v%20Catholic%20Diocese%20Memphis%20OPN.pdf</a>

<http://www.tncourts.gov/OPINIONS/Tca/PDF/102/Norman%20Redwing%20v%20Catholic%20Diocese%20Memphis%20DIS.pdf>

4.	Lower Court Summary	Plaintiff filed an action against the Catholic Bishop for The Diocese of Memphis, asserting the Diocese was liable for damages arising from the negligent hiring, retention and supervision of a priest, who Plaintiff alleged abused him when he was a child. The Diocese moved to dismiss for lack of subject matter jurisdiction and on the grounds that the statute of limitations prescribed by Tennessee Code Annotated § 28-3-104 had expired. The trial court denied the motions. It also denied the Diocese's motion for permission to seek an interlocutory appeal pursuant to Rule 9 of the Tennessee Rules of Appellate Procedure. We granted the Diocese's motion for extraordinary appeal under Rule 10. We affirm the trial court's judgment with respect to subject matter jurisdiction over Plaintiff's claim of negligent supervision, but hold that Plaintiff's claims of negligent hiring and negligent retention are barred by the ecclesiastical abstention doctrine. We reverse the trial court's judgment with respect to the expiration of the statute of limitations.
5.	Status	Granted 12/07/10
1.	Style	Michael Sanford v. Waugh & Co., Inc.
2.	Docket Number	M2007-02528-COA-R3-CV
3.	Lower Court Decision Link	<a href="http://www.tncourts.gov/OPINIONS/Tca/PDF/093/Sanford%20v%20Waugh%20OPN.pdf">http://www.tncourts.gov/OPINIONS/Tca/PDF/093/Sanford%20v%20Waugh%20OPN.pdf</a>
4.	Lower Court Summary	Plaintiff is a creditor of an insolvent corporation that owed him in excess of \$1 million under the terms of a promissory note. Plaintiff sued the corporation and its owner to enforce the note. Defendants are former officers and directors of the corporation who instituted a direct action against Plaintiff shortly after the filing of his complaint alleging he fraudulently misrepresented the financial condition of the company. During the pendency of both actions, Defendants began winding down the corporation and disposing of assets in which Plaintiff claimed a security interest. Plaintiff believed Defendants were acting to enrich themselves and avoid paying Plaintiff under the note. After Defendants voluntarily dismissed their action against Plaintiff, Plaintiff sued Defendants for breach of fiduciary duty, fraudulent conveyance, malicious prosecution, abuse of process, conspiracy, and conversion. The trial court dismissed the abuse of process, breach of fiduciary duty, and conversion claims on summary judgment, limited the scope of Plaintiff's claim for fraudulent conveyance and conspiracy, and denied summary judgment on the malicious prosecution claim. Following Plaintiff's proof, the trial court granted a directed verdict in favor of Defendants on Plaintiff's claim for punitive damages but denied the motion on the malicious prosecution and fraudulent conveyance claims. The jury returned verdicts in favor of Plaintiff awarding \$51,000 in damages for malicious prosecution, \$176,222 in damages for fraudulent conveyance, and found that Defendants conspired both to maliciously prosecute their claim against Plaintiff and to fraudulently transfer corporation assets. Both parties appeal issues on summary judgment, evidentiary rulings, and directed verdicts. We have determined that

Plaintiff sufficiently pled a cause of action for civil conspiracy based on facts alleged in the amended complaint and that, under the circumstances in this case, Plaintiff is entitled to assert a claim for breach of fiduciary duty directly against Defendants. We reverse the directed verdict granted in favor of Defendants on punitive damages and remand for a new trial on these issues. We further find that summary judgment was proper on Plaintiff's conversion claim and affirm the trial court's decisions allowing the claims for fraudulent conveyance and malicious prosecution to proceed to the jury.

5.	Status	Opinion filed 12/17/10 revising the judgment of the Court of Appeals and remanding to the chancery court
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1.	Style	Donna Faye Shipley et al. v. Robin Williams, M.D.
2.	Docket Number	M2007-01217-SC-R11-CV
3.	Lower Court Decision Link	<a href="http://www.tncourts.gov/OPINIONS/Tca/PDF/093/Donna%20Faye%20Shipley%20et%20al%20v%20Robin%20Williams%20MDD%20Opn.pdf">http://www.tncourts.gov/OPINIONS/Tca/PDF/093/Donna%20Faye%20Shipley%20et%20al%20v%20Robin%20Williams%20MDD%20Opn.pdf</a>
4.	Lower Court Summary	None Available/Direct AppealIn reliance on plaintiff's experts, the trial court granted defendant doctor's motion for partial summary judgment on the medical malpractice claim pertaining to defendant's failure to admit plaintiff into the hospital. The trial court later granted the defendant doctor summary judgment on the remaining malpractice claims finding that the plaintiff's medical expert proof previously relied upon by defendant failed to comply with Tenn. Code Ann. § 29-26-115. We reverse the grant of partial summary judgment on the failure to admit claim since the defendant doctor relied solely on plaintiff's experts, whose testimony was later found inadmissible. We also reverse the summary judgment of the remaining malpractice claims since the defendant doctor never presented proof to negate an element of those claims. Consequently, the plaintiff had no duty to create issues of fact at the summary judgment phase.
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5.	Status	Heard 10/06/10 in Nashville
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1.	Style	Arlene R. Starr v. Paul B. Hill, Sr. et al.
2.	Docket Number	W2009-00524-SC-R11-CV
3.	Lower Court Decision Link	<a href="http://www.tsc.state.tn.us/OPINIONS/TCA/PDF/101/Arlene%20R%20Starr%20v%20Paul%20B%20Hill%20Sr%20and%20Paul%20B%20Hill%20Jr%20OPN.pdf">http://www.tsc.state.tn.us/OPINIONS/TCA/PDF/101/Arlene%20R%20Starr%20v%20Paul%20B%20Hill%20Sr%20and%20Paul%20B%20Hill%20Jr%20OPN.pdf</a>
4.	Lower Court Summary	After Plaintiff was injured in a car accident, she filed suit against the minor who was driving the other vehicle and against the minor's father, alleging that he was vicariously liable for the acts of his son pursuant to the family purpose doctrine. Father moved for summary judgment, claiming that the undisputed facts showed that the family purpose doctrine was inapplicable as a matter of law. Plaintiff

moved for partial summary judgment, claiming that the family purpose doctrine was applicable as a matter of law. The trial court denied Plaintiff's motion for partial summary judgment and granted summary judgment to Father. Plaintiff appeals. We reverse and remand for entry of an order granting Plaintiff's motion, as we find the family purpose doctrine applicable to this case.

5.	Status	Appellant's reply brief filed 12/09/10
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1.	Style	State v. Jason Calvert
2.	Docket Number	M2008-00426-SC-R11-PC
3.	Lower Court Decision Link	<a href="http://www.tsc.state.tn.us/OPINIONS/tcca/PDF/092/CalvertJasonOPN.pdf">http://www.tsc.state.tn.us/OPINIONS/tcca/PDF/092/CalvertJasonOPN.pdf</a>
4.	Lower Court Summary	The petitioner, Jason Calvert, appeals from the denial of his petition for post-conviction relief. In this appeal, he claims that he received the ineffective assistance of counsel, which rendered his guilty plea unknowing and involuntary. Discerning no error, we affirm.
5.	Status	Appellant's brief filed 12/03/10
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1.	Style	Cantrell v. State (Easterling)
2.	Docket Number	W2009-00985-SC-R11-HC
3.	Lower Court Decision Link	<a href="http://www.tsc.state.tn.us/OPINIONS/tcca/PDF/101/David%20Cantrell%20v%20State%20and%20Easterling.pdf">http://www.tsc.state.tn.us/OPINIONS/tcca/PDF/101/David%20Cantrell%20v%20State%20and%20Easterling.pdf</a>
4.	Lower Court Summary	In 1995, a Hickman County jury convicted the Petitioner of four counts of aggravated rape and one count of false imprisonment, and the trial court sentenced him as a Range II multiple offender to a total effective sentence of eighty years in the Tennessee Department of Correction. The Petitioner filed a petition for habeas corpus relief, claiming the trial court did not have statutory authority to sentence him as a Range II multiple offender. The habeas court dismissed the petition without a hearing, finding that "[h]abeas corpus relief is not appropriate." After a thorough review of the record and applicable law, we affirm the judgment of the habeas court.
5.	Status	Appellant's brief filed 10/20/10; Appellee's brief due 12/29/10
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1.	Style	State v. Michael Angelo Coleman
2.	Docket Number	W2007-02767-SC-R11-PD

3.	Lower Court Decision Link	<a href="http://www.tncourts.gov/OPINIONS/TCCA/PDF/101/Michael%20Angelo%20Coleman%20v%20State.pdf">http://www.tncourts.gov/OPINIONS/TCCA/PDF/101/Michael%20Angelo%20Coleman%20v%20State.pdf</a>
4.	Lower Court Summary	The Petitioner, Michael Angelo Coleman, appeals his motion to reopen his post-conviction petition for the limited purpose of determining whether he is mentally retarded and, thus, ineligible for the death penalty. The Petitioner asserts that the proof established by a preponderance of the evidence that he is mentally retarded, which renders his sentence of death unconstitutional. After a review of the record and the applicable law, we affirm the lower court's denial of relief.
5.	Status	Heard 11/03/10 in Jackson
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1.	Style	State v. Alecia Diane Cooper
2.	Docket Number	M2009-00848-SC-R11-CD
3.	Lower Court Decision Link	<a href="http://tncourts.gov/OPINIONS/tcca/PDF/101/State%20v%20Alecia%20Diane%20Cooper.pdf">http://tncourts.gov/OPINIONS/tcca/PDF/101/State%20v%20Alecia%20Diane%20Cooper.pdf</a>
4.	Lower Court Summary	The Defendant, Alecia Diane Cooper, pled guilty to one count of driving under the influence, a Class A misdemeanor, and the trial court sentenced her to eleven months and twenty-nine days in confinement at one hundred percent. The trial court provided, however, that it would release the Defendant after ninety days if the Defendant entered and completed an in-patient alcohol treatment facility. On appeal, the Defendant challenges the trial court's sentence of total confinement, as well as the legality of the provision shortening the Defendant's confinement if the Defendant completes treatment. After a thorough review of the evidence and the applicable authorities, we affirm the trial court's judgment.
5.	Status	Set to be heard 02/02/11 in Nashville
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1.	Style	State v. Lonnie L. Cross
2.	Docket Number	E2008-02792-SC-R11-CD
3.	Lower Court Decision Link	<a href="http://www.tncourts.gov/OPINIONS/TCCA/PDF/102/State%20vs%20Lonnie%20L%20Cross.pdf">http://www.tncourts.gov/OPINIONS/TCCA/PDF/102/State%20vs%20Lonnie%20L%20Cross.pdf</a>
4.	Lower Court Summary	After the appellant, Lonnie L. Cross, led police on a high-speed chase, a Bradley County Criminal Court jury convicted him on two counts of reckless endangerment with a deadly weapon, felony evading arrest with risk to others, driving on a revoked license, and speeding. The trial court sentenced the appellant to an effective sentence of eight years in custody. On appeal, the appellant contends that the evidence was insufficient to support two of his convictions: the evading arrest conviction and one of the reckless endangerment



convictions. The appellant also challenges the trial court's reliance on two sentencing enhancement factors. Upon review, we conclude that there was sufficient evidence for the appellant's convictions. We also conclude that, although the trial court erred in its application of one of the enhancement factors, the error was harmless. However, our review of the record reveals that the trial court committed plain error. The appellant's conviction on the reckless endangerment in count three violates constitutional double jeopardy protections. We therefore affirm the judgements of the trial court as to count one, reckless endangerment, and count two, evading arrest. The judgment of conviction in count three is vacated, and the case is remanded to the trial court for merger of the conviction in count three with the evading arrest conviction in count two.

5.	Status	Appellee's brief due 01/13/11
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1.	Style	State v. Genaro Edgar Espinosa Dorantes
2.	Docket Number	M2007-01918-SC-R11-CD
3.	Lower Court Decision Link	<a href="http://www.tncourts.gov/OPINIONS/tcca/PDF/094/State%20v%20Genaro%20E%20E%20Dorantes.pdf">http://www.tncourts.gov/OPINIONS/tcca/PDF/094/State%20v%20Genaro%20E%20E%20Dorantes.pdf</a>
4.	Lower Court Summary	Defendant-Appellant, Genaro Edgar Espinosa Dorantes ("Dorantes") was convicted by a Davidson County jury of first degree felony murder during the perpetration of aggravated child abuse and aggravated child abuse by infliction of injury. For the felony murder conviction, Dorantes received a mandatory sentence of life imprisonment. The trial court later sentenced him as Range I, standard offender to a consecutive term of twenty-two years' incarceration for the aggravated child abuse conviction. Dorantes argues: (1) the record is insufficient to support both his conviction for first degree felony murder based on aggravated child abuse and his conviction for aggravated child abuse; (2) the trial court erred in admitting certain photographs of the victim's body; (3) the trial court erred when it refused to provide a special jury instruction that ensured that the verdicts were based on acts of abuse rather than a continuing course of neglect; (4) the trial court erred in denying his motion to require the State to make an election of offenses; and (5) his sentence of twenty-two years for the aggravated child abuse conviction was excessive. After a careful review of the record and the issues presented, we conclude the evidence is insufficient to support the aggravated child abuse conviction; therefore, we reverse and vacate the conviction for the aggravated child abuse and modify Dorantes' sentence to life imprisonment. The judgment of the trial court for the felony murder conviction is affirmed.
5.	Status	Heard 10/07/10 at the 21st Judicial District S.C.A.L.E.S. project
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1.	Style	Henry Zillon Felts v. State
2.	Docket Number	M2009-00639-SC-R11-PC

3.	Lower Court Decision Link	<a href="http://www.tsc.state.tn.us/OPINIONS/tcca/PDF/102/Henry%20Zillon%20Felts%20v%20State.pdf">http://www.tsc.state.tn.us/OPINIONS/tcca/PDF/102/Henry%20Zillon%20Felts%20v%20State.pdf</a>
4.	Lower Court Summary	Following a jury trial, the Petitioner, Henry Zillon Felts, was convicted of attempted first degree murder and aggravated burglary. He was sentenced to twenty-one years in the Department of Correction. This Court affirmed his convictions and sentences. See State v. Henry Zillon Felts, No. M2005-01215-CCA-R3-CD, 2006 WL 2563374 (Tenn. Crim. App., Nashville, Aug. 25, 2006). He subsequently petitioned for post-conviction relief. The Criminal Court of Sumner County found that the Petitioner received the ineffective assistance of counsel at trial because: (1) trial counsel failed to fulfill his promise to the jury that the Petitioner would testify; and (2) trial counsel failed to argue attempted voluntary manslaughter as a defense. The post-conviction court thus set aside the Petitioner's convictions and granted him a new trial. In this appeal, the State contends that the post-conviction court erred in granting the Petitioner relief. After our review, we affirm the judgment of the post-conviction court.
5.	Status	State's brief due 12/22/10
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1.	Style	State v. Jeremy Garrett
2.	Docket Number	W2007-02700-SC-R11-CD
3.	Lower Court Decision Link	<a href="http://www.tncourts.gov/OPINIONS/TCCA/PDF/094/State%20vs%20Jeremy%20Garrett.pdf">http://www.tncourts.gov/OPINIONS/TCCA/PDF/094/State%20vs%20Jeremy%20Garrett.pdf</a>
4.	Lower Court Summary	In two separate indictments, the defendant, Jeremy Garrett, was charged with aggravated robbery, a Class B felony; first degree felony murder; and especially aggravated robbery, a Class A felony. The trial court subsequently granted the State's motion to consolidate the two indictments without conducting a hearing, and, following a jury trial, the defendant was convicted as charged. He was subsequently sentenced to concurrent sentences of eight years, life, and fifteen years for the respective convictions. On appeal, the defendant raises two issues for our review: (1) whether the trial court erred in granting the State's motion to consolidate the two indictments without conducting a hearing; and (2) whether the evidence is sufficient to support the conviction for first degree felony murder. Following review of the record, we conclude that, although the trial court did err in failing to conduct a hearing on the motion to consolidate, the error was harmless. Further, we conclude that the evidence presented was sufficient to support the conviction. Accordingly, the judgments of conviction are affirmed.
5.	Status	Heard 11/03/10 in Jackson
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1.	Style	State v. Ungandua Ingram
2.	Docket Number	M2008-02765-SC-R11-CD

3.	Lower Court Decision Link	<a href="http://www.tncourts.gov/OPINIONS/tcca/PDF/094/State%20v%20Ungandua%20Ingram.pdf">http://www.tncourts.gov/OPINIONS/tcca/PDF/094/State%20v%20Ungandua%20Ingram.pdf</a>
4.	Lower Court Summary	<p>The Defendant, Ungandua Ingram, was charged with two counts of selling .5 grams or more of cocaine; two counts of delivery of .5 grams or more of cocaine; two counts of conspiring to sell .5 grams or more of cocaine; one count of possession of .5 grams or more of cocaine with intent to sell; and one count of possession of .5 grams or more of cocaine with intent to deliver, each a Class B felony. See Tenn. Code Ann. § 39-17-417(c)(1). He was also charged with one count of simple possession of marijuana and one count of possession of unlawful drug paraphernalia, each a Class A misdemeanor. See Tenn. Code Ann. §§ 39-17-418(c), -425(c)(2). Following a jury trial, he was convicted of one count of the sale of .5 grams or more of cocaine; one count of conspiring to sell .5 grams or more of cocaine; one count of possession of .5 grams or more of cocaine with intent to sell; one count of simple possession of marijuana; and one count of possession of unlawful drug paraphernalia. The trial court sentenced the Defendant to an effective sentence of eight years and six months, one year of which it ordered to be served in the Marshall County Jail, with the remainder to be served on probation. In this direct appeal, the Defendant argues that: (1) the trial court erred in denying his motion to suppress evidence found on his person and in his home; (2) the trial court erred in upholding the State's use of a peremptory challenge under <i>Batson v. Kentucky</i>, 476 U.S. 79 (1986); (3) the State presented evidence insufficient to convict him of conspiring to sell .5 grams or more of cocaine; and (4) the trial court erred in admitting certain statements of his co-defendant. After our review, we conclude that the trial court erred in denying the Defendant's motion to suppress the fruits of a search of his person. Accordingly, we reverse the Defendant's convictions for the sale of .5 grams or more of cocaine and conspiring to sell .5 grams of more of cocaine. We remand those cases for a new trial. We affirm the Defendant's convictions for possession of .5 grams or more of cocaine with intent to sell, possession of marijuana, and possession of unlawful drug paraphernalia.</p> <p>Heard 10/07/10 at the 21st Judicial District S.C.A.L.E.S. project</p>
5.	Status	
1.	Style	State v. Cedric Johnson
2.	Docket Number	W2008-01593-SC-R11-CD
3.	Lower Court Decision Link	<a href="http://www.tncourts.gov/OPINIONS/TSC/PDF/094/State%20v%20Cedric%20Johnson%20OPN.pdf">http://www.tncourts.gov/OPINIONS/TSC/PDF/094/State%20v%20Cedric%20Johnson%20OPN.pdf</a>
4.	Lower Court Summary	<p>The State appeals the Shelby County Criminal Court's dismissal of an aggravated robbery indictment against the Defendant, Cedric Johnson. The dismissal was pursuant to Rule 8(a) of the Tennessee Rules of Criminal Procedure requiring mandatory joinder. Upon our review of the record and applicable authority, we affirm the judgment of the trial court.</p>
5.	Status	Heard 11/04/10 in Memphis

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1.	Style	State v. Teddy Ray Mitchell
2.	Docket Number	E2008-02672-SC-R11-CD
3.	Lower Court Decision Link	<a href="http://www.tsc.state.tn.us/OPINIONS/tcca/PDF/101/State%20v%20Teddy%20Ray%20Mitchell.pdf">http://www.tsc.state.tn.us/OPINIONS/tcca/PDF/101/State%20v%20Teddy%20Ray%20Mitchell.pdf</a>  <a href="http://www.tsc.state.tn.us/OPINIONS/tcca/PDF/101/State%20v%20Teddy%20Ray%20Mitchell%20DIS.pdf">http://www.tsc.state.tn.us/OPINIONS/tcca/PDF/101/State%20v%20Teddy%20Ray%20Mitchell%20DIS.pdf</a>
4.	Lower Court Summary	The Defendant, Teddy Ray Mitchell, appeals from his jury conviction in the Criminal Court of Hamblen County for disorderly conduct, a Class C misdemeanor, for which he received a sentence of thirty days in jail. In this appeal as of right, the Defendant contends (1) that the evidence is insufficient to support his conviction, (2) that his conviction violates his First Amendment right to free speech, and (3) that the trial court erred in admitting evidence of an altercation with another police officer that was contemporaneous to the offense. Following our review, we conclude that the evidence is insufficient to support the Defendant's conviction of disorderly conduct. Accordingly, the Defendant's conviction is reversed, and the case is dismissed.
5.	Status	Set for hearing on 1/5/11 in Knoxville

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1.	Style	State v. David Nagele
2.	Docket Number	E2009-01313-SC-R11-CD
3.	Lower Court Decision Link	<a href="http://www.tncourts.gov/OPINIONS/tcca/PDF/102/State%20v%20David%20Nagele.pdf">http://www.tncourts.gov/OPINIONS/tcca/PDF/102/State%20v%20David%20Nagele.pdf</a>
4.	Lower Court Summary	The Defendant, David Nagele, appeals from the Knox County Criminal Court's denial of his motion to withdraw his plea to attempted aggravated sexual battery, a Class C felony, following correction of the judgment to reflect that the Defendant was subject to community supervision for life. We hold (1) that the trial court did not err in denying the motion and (2) that the Defendant is not entitled to plain error relief in his challenge to the constitutionality of the community supervision for life statute. The judgment of the trial court is affirmed.
5.	Status	Appellant's brief filed 12/08/10

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1.	Style	State v. Richard Odom
2.	Docket Number	W2008-02464-SC-DDT-DD

3.	Lower Court Decision Link	<a href="http://www.tsc.state.tn.us/OPINIONS/TCCA/PDF/101/State%20v%20Richard%20Odom.pdf">http://www.tsc.state.tn.us/OPINIONS/TCCA/PDF/101/State%20v%20Richard%20Odom.pdf</a>
4.	Lower Court Summary	<p>The defendant, Richard Odom, appeals as of right his sentence of death resulting from the May 10, 1991, murder of Mina Ethel Johnson. A Shelby County jury convicted the defendant of first degree murder committed in the perpetration of rape. Following a separate sentencing hearing, the jury found that the proof supported three aggravating circumstances beyond a reasonable doubt: (1) the defendant had been previously convicted of one or more violent felonies, Tenn. Code Ann. § 39-13-204(i)(2); (2) the murder was especially heinous, atrocious, or cruel, Tenn. Code Ann. § 39-13-204(i)(5); and (3) the murder was committed during the defendant's escape from lawful custody or from a place of lawful confinement, Tenn. Code Ann. § 39-13-204(i)(8), and sentenced the defendant to death by electrocution. On direct appeal, the Tennessee Supreme Court affirmed the defendant's conviction for first degree murder but reversed the sentence of death and remanded for a new sentencing hearing. See <i>State v. Odom</i>, 928 S.W.2d 18, 21 (Tenn. 1996). Specifically, the supreme court found that reversible error was committed in the sentencing phase in that (1) the proof did not support application of the (i)(5), heinous, atrocious, cruel aggravating circumstance; (2) the evidence did not support the jury's finding that the defendant committed the murder during an escape from lawful custody, (i)(8); (3) the trial court failed to permit the defendant to present the mitigating testimony of Dr. John Hutson; and (4) the trial court failed to properly instruct the jury as to nonstatutory mitigating circumstances. <i>Id.</i> Accordingly, the case was remanded to the trial court for resentencing. At the conclusion of the resentencing hearing which commenced on September 28, 1999, the jury found the presence of one aggravating circumstance, the defendant had been previously convicted of one or more violent felonies, Tenn. Code Ann. § 39-13-204(i)(2). The jury further determined that the mitigating circumstances did not outweigh the aggravating circumstances and imposed a sentence of death. The trial court approved the sentencing verdict. This court affirmed the sentence, but the Tennessee Supreme Court again reversed, finding that evidence of the prior violent felony offense was improperly admitted. <i>State v. Odom</i>, 137 S.W.3d 572, 580-83 (Tenn. 2004). A third resentencing hearing was held on December 3, 2007. The jury found the presence of two aggravating circumstances: the defendant had previously been convicted of a prior violent felony and the murder was committed during an attempt to commit a robbery. See Tenn. Code Ann. § 39-13-204(i)(2), (7). The jury further determined that the mitigating circumstances did not outweigh the aggravating circumstances and, again, imposed a sentence of death. The defendant appeals, presenting for our review the following claims: (1) the trial court erred in granting a challenge for cause to a juror; (2) the trial court erred in admitting crime scene photographs; (3) the jury instruction on parole eligibility violated his right to due process; (4) the criteria of Tennessee Code Annotated section 39-13-206(c)(1) have not been satisfied in the present case; (5) his waiver of his right to testify was not knowingly, intelligently, or voluntarily made; (6) the reasonable doubt instruction violated his constitutional rights; and (7) Tennessee's death penalty scheme is unconstitutional. Following our review, we affirm the jury's imposition of the sentence of death in this case.</p>
5.	Status	Heard 11/04/10 in Memphis

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1.	Style	State v. Terry Phelps
2.	Docket Number	M2008-01096-SC-R11-CD
3.	Lower Court Decision Link	<a href="http://www.tsc.state.tn.us/OPINIONS/tcca/PDF/093/State%20v%20Terry%20Phelps.pdf">http://www.tsc.state.tn.us/OPINIONS/tcca/PDF/093/State%20v%20Terry%20Phelps.pdf</a>
4.	Lower Court Summary	A Bedford County grand jury indicted the Defendant, Terry Phelps, on charges of violating the sex offender registry statute due to failure to register a change of residence. He pled guilty, agreeing to allow the trial court to determine his sentence. Before the sentencing hearing, the Defendant filed a motion to withdraw his guilty plea, which the trial court denied. The trial court sentenced him to three years in the Tennessee Department of Correction ("TDOC") as a Range II offender. The Defendant now appeals, contending: (1) the trial court erred when it denied his motion to withdraw his guilty plea; and (2) the trial court erred in setting the length and range of his sentence. After a thorough review of the record and the applicable law, we affirm the trial court's judgment.
5.	Status	Opinion filed 12/16/10 reversing the judgment of the Court of Criminal Appeals, granting the motion to set aside the guilty plea, and remanding to the trial court

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1.	Style	Rudolph Powers v. State
2.	Docket Number	W2008-01346-SC-R11-PC
3.	Lower Court Decision Link	<a href="http://www.tsc.state.tn.us/OPINIONS/Tcca/PDF/101/Rudolph%20Powers%20v%20State.pdf">http://www.tsc.state.tn.us/OPINIONS/Tcca/PDF/101/Rudolph%20Powers%20v%20State.pdf</a>
4.	Lower Court Summary	A Shelby County Criminal Court jury convicted the Petitioner, Rudolph Powers, of aggravated rape and robbery accomplished with a deadly weapon against the victims Vivian Brodie and Carol Boone, and the Petitioner was sentenced to life imprisonment and twenty-five years respectively, which were to be served concurrently. A few months later, another Shelby County Criminal Court jury convicted the Petitioner of aggravated rape against victim Kris Brewer, and the trial court sentenced him to fifty years of imprisonment. The Petitioner was ordered to serve his fifty-year sentence consecutively to his concurrent sentences of life imprisonment and twenty-five years. Following a direct appeal and several collateral appeals, which were unsuccessful, the Petitioner filed a petition for post-conviction DNA analysis, which the post-conviction court denied. On appeal, the Petitioner contends that the post-conviction court erred in denying his petition for post-conviction DNA analysis. Upon review, we affirm the judgment of the post-conviction court.
5.	Status	Appellant's brief filed 11/23/10

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1.	Style	State of Tennessee v. Alfred Turner
2.	Docket Number	No. W2007-00891-SC-R11-CD
3.	Lower Court Decision Links	<a href="http://www.tsc.state.tn.us/OPINIONS/TCCA/PDF/102/State%20vs%20Alfred%20Turner.pdf">http://www.tsc.state.tn.us/OPINIONS/TCCA/PDF/102/State%20vs%20Alfred%20Turner.pdf</a>  <a href="http://www.tsc.state.tn.us/OPINIONS/TCCA/PDF/102/State%20vs%20Alfred%20Turner%20DIS.pdf">http://www.tsc.state.tn.us/OPINIONS/TCCA/PDF/102/State%20vs%20Alfred%20Turner%20DIS.pdf</a>
4.	Lower Court Summary	<p>The defendant, Alfred Turner, was found guilty by a jury of the lesser included offenses of facilitation of felony murder, a Class A felony, and facilitation of second degree murder. After merging the convictions, the trial court sentenced the defendant to twenty-five years of incarceration as a Range I, standard offender. On appeal, he argues that: insufficient evidence exists to support his conviction; a proper chain of custody for the introduction of DNA evidence was not established; the trial court erred in allowing into evidence that two other individuals had been acquitted of this murder; and the trial court erred in both jury instructions and sentencing. After careful review, we conclude that even though sufficient evidence existed to support the defendant's convictions, the defendant's sentence ran afoul of Blakely and the prior acquittals of two other individuals deprived the defendant of a fair trial. Therefore, the error requires a remand for a new trial.</p>
5.	Status	Granted 12/07/10

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1.	Style	State v. Nigel Kavic Watkins
2.	Docket Number	M2009-00348-SC-R11-CV
3.	Lower Court Decision Link	<a href="http://www.tsc.state.tn.us/OPINIONS/tcca/PDF/101/State%20v%20Nigel%20Kavic%20Watkins.pdf">http://www.tsc.state.tn.us/OPINIONS/tcca/PDF/101/State%20v%20Nigel%20Kavic%20Watkins.pdf</a>
4.	Lower Court Summary	<p>The Defendant, Nigel Kavic Watkins, was charged with one count of first degree felony murder and one count of aggravated child abuse. Following a jury trial, he was convicted of one count of reckless homicide, a Class D felony, and one count of aggravated child abuse, a Class A felony. See Tenn. Code Ann. §§ 39-13-215(b), -15-402(b). He was sentenced as a Range I, standard offender to four years for reckless homicide and, as a violent offender, to twenty-five years for aggravated child abuse. The trial court ordered him to serve these sentences consecutively, for a total effective sentence of twenty-nine years in the Department of Correction. In this direct appeal, the Defendant contends that: (1) the trial court erred in denying his motion to suppress his statement; (2) the trial court erred in allowing the introduction of certain autopsy photographs; (3) the State presented evidence insufficient to convict him of aggravated child abuse; and (4) the trial court erred in setting the length of his sentence and in ordering</p>

consecutive service. We notice as plain error that the Defendant's rights under the Fifth Amendment to the United States Constitution's double jeopardy clause were violated by his dual convictions. After our review, we affirm the Defendant's conviction for aggravated child abuse. We merge the Defendant's reckless homicide conviction into his aggravated child abuse conviction and remand for resentencing.

5.	Status	Set for hearing 02/03/11
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1.	Style	State of Tennessee v. Jason Lee White
2.	Docket Number	M2009-00941-SC-R11-CD
3.	Lower Court Decision Link	<a href="http://www.tsc.state.tn.us/OPINIONS/tcca/PDF/102/State%20v%20Jason%20Lee%20White.pdf">http://www.tsc.state.tn.us/OPINIONS/tcca/PDF/102/State%20v%20Jason%20Lee%20White.pdf</a>
4.	Lower Court Summary	The Defendant, Jason Lee White, was convicted by a jury of one count of burglary, one count of aggravated robbery, and one count of especially aggravated kidnapping. In this direct appeal, he contends that the trial court erred: (1) in denying his motion to set aside his conviction for especially aggravated kidnapping; and (2) in upholding the State's use of a peremptory challenge under Batson v. Kentucky, 476 U.S. 79 (1986). After our review, we reverse and dismiss the Defendant's especially aggravated kidnapping conviction. In all other respects, the judgments of the trial court are affirmed.
5.	Status	Set to be heard 02/02/11
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1.	Style	Stephen Bernard Wlodarz v. State
2.	Docket Number	E2008-02179-SC-R11-CO
3.	Lower Court Decision Link	<a href="http://www.tsc.state.tn.us/OPINIONS/tcca/PDF/102/Stephen%20Wlodarz%20v%20State.pdf">http://www.tsc.state.tn.us/OPINIONS/tcca/PDF/102/Stephen%20Wlodarz%20v%20State.pdf</a>
4.	Lower Court Summary	After entering "best interest" guilty pleas in order to avoid a potential death penalty conviction, Petitioner, Stephen Wlodarz, filed a petition for a writ of error coram nobis. The Hawkins County Criminal Court denied the petition.. On appeal, Petitioner asserts that the trial court erred in finding there was no newly discovered evidence and that Petitioner failed to demonstrate that his pleas were not knowingly and voluntarily entered. We affirm.
5.	Status	Appellee's brief due 11/16/11
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1.	Style	Timmy Sykes et al. v. Chattanooga Housing Authority et al.
2.	Docket Number	E2008-00525-SC-R11-CV
3.	Lower Court Decision Link	<a href="http://www.tsc.state.tn.us/OPINIONS/TCA/PDF/093/Timmy%20Sykes%20v%20Chattanooga%20Hosing%20Auth%20et%20al%20OPN.pdf">http://www.tsc.state.tn.us/OPINIONS/TCA/PDF/093/Timmy%20Sykes%20v%20Chattanooga%20Hosing%20Auth%20et%20al%20OPN.pdf</a>
4.	Lower Court Summary	<p>This opinion replaces one filed on March 31, 2009, which opinion was withdrawn by us "and held for naught" by order of April 21, 2009. The joint complaint filed by the plaintiffs, Timmy Sykes and Curtis Greene, who are African-Americans, actually involves the independent claims of the two plaintiffs against their former employer, the Chattanooga Housing Authority ("the CHA" or "CHA"), and the plaintiffs' supervisor in that employment, Jeff Hazelwood, Chief of the CHA's Public Safety Department, for wrongful termination of their employment and other claims. Sykes, who was a CHA criminal investigator, was terminated by the CHA on September 30, 2004, and Greene, also a criminal investigator, was terminated on January 19, 2005. They each seek damages for wrongful termination, asserting two theories of recovery. Sykes also seeks damages from Chief Hazelwood for alleged defamatory statements made by him and both plaintiffs sue Hazelwood for interfering with their CHA employment. The defendants filed a motion for summary judgment which the trial court granted as to all claims. The plaintiffs appeal. They raise three issues in common and Sykes complains of the trial court's judgment with respect to his defamation claim. We affirm in part and vacate in part.</p>
5.	Status	To be heard 01/05/11 in Knoxville
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1.	Style	Pam Webb v. Nashville Area Habitat for Humanity, Inc.
2.	Docket Number	M2009-01552-SC-R11-CV
3.	Lower Court Decision Link	<a href="http://www.tsc.state.tn.us/OPINIONS/TCA/PDF/102/Pam%20Webb%20v%20Nashville%20Habitat%20for%20Humanity%20opn.pdf">http://www.tsc.state.tn.us/OPINIONS/TCA/PDF/102/Pam%20Webb%20v%20Nashville%20Habitat%20for%20Humanity%20opn.pdf</a>
4.	Lower Court Summary	<p>In this action charging retaliatory discharge, the Trial Court granted defendant a dismissal of action based on its Tenn. R. Civ. P. Rule 12 Motion. On appeal, we vacate the Judgment of the Trial Court and remand.</p>
5.	Status	To be heard 02/03/11 in Nashville
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1.	Style	David Lee Wright ex rel. Kaitlyn W. v. Anita J. Wright et al.
2.	Docket Number	M2008-01181-SC-R11-CV
3.	Lower Court Decision Link	<p>Pending (second) appeal:</p> <p><a href="http://www.tsc.state.tn.us/OPINIONS/TCA/PDF/094/Wright%20v%20Wright%20and%20Wright%20v%20Dunaway%20OPN.pdf">http://www.tsc.state.tn.us/OPINIONS/TCA/PDF/094/Wright%20v%20Wright%20and%20Wright%20v%20Dunaway%20OPN.pdf</a></p>

First appeal:

<http://www.tsc.state.tn.us/OPINIONS/TCA/PDF/074/WrightOPN.pdf>

4. Lower Court  
Summary

This is the second appeal in this case regarding the amount of attorney's fees awarded to counsel for a minor. The minor was injured in a car accident, and her father employed counsel to file suit on her behalf, naming him as her next friend. The trial court appointed a guardian ad litem for the minor. The parties settled the case, and the trial court approved an attorney's fee award for the minor's attorney of one-third of the settlement proceeds based upon a contingency fee agreement signed by the minor's father. The guardian ad litem appealed, challenging the reasonableness of the fee. On appeal, this Court found no evidence in the record regarding the reasonableness of the award, as the parties did not present proof at the hearing, and the trial court made no findings regarding the relevant factors when approving the award. Therefore, the Court reversed the trial court and remanded for a hearing to enable the trial court to set a reasonable fee. On remand, the trial court heard testimony and considered exhibits submitted by the parties, then slightly reduced the attorney's fee. The guardian ad litem appeals, again challenging the reasonableness of the fee. We affirm, finding no abuse of the trial court's discretion.

5. Status

Heard in Nashville on 10/06/10; Appellant's reply brief filed 10/25/10

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